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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,275	01/16/2001	Madoka Yamauchi	F-6820	5600

7590 10/16/2002  
Jordan and Hamburg  
122 East 42nd Street  
New York, NY 10168

EXAMINER

ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/761,275

Applicant(s)

YAMAUCHI ET AL. *Ch*

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*ML*  
MARK SAGER  
PRIMARY EXAMINER

***DETAILED ACTION******Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: figure 3 is missing reference number (32) described in the specification on page 13, line 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Information On How to Effect Drawing Changes*****Correction of Informalities -- 37 CFR 1.85:**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**Corrections other than Informalities Noted by Draftsperson on form PTO-948:**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the

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application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections:**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

***Specification***

The abstract of the disclosure is objected to because it written using legal phraseology. The abstract should be rewritten in narrative, plain English form. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation of “a mark changing unit for changing a mark corresponding to the set degree of difficulty according to time.” The claim is indefinite because it fails to describe how the mark changing unit and time are related. More specifically, does the change occur based on the change in time or a specific time? Furthermore, the specification discloses that the mark changing unit changes the

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difficulty mark in accordance with the player's operation of the joystick and not necessarily with time.

*See p. 22, ¶ 2.*

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-14, 16-19 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by *Nagano Winter Olympics '98*, published by Konami Corp. (29 January 1998) (hereinafter "*NWO-98*"). The particular features of the game software are described in the following references: *Nagano Winter Olympics '98 Manual*, downloaded from Internet on Oct. 4, 2002 <<http://www.cheatcc.com/psx/-manuals/-nagano.txt>> (hereinafter "*Nagano Manual*"), *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.n64cc.com/-reviews/revnag.htm>> (hereinafter "*Nagano N64*") and *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.ign64.ign.com/-articles/152/152259pl.html>> (hereinafter "*Nagano IGN*")

*NWO-98* is a video game executed by a game console wherein a programmable controller executes instructions allowing players to control game characters displayed on a video monitor to perform techniques having various degrees of difficulty. The references teaches the following features of the claims:

- a. Setting a degree of difficulty of a technique to be performed by the player character. *See Nagano Manual, pp. 9-10; Nagano N64, p. 2, ¶ 3, 4; Nagano IGN p.1, ¶ 9. (Claims 1, 11, 16)*
- b. Guiding a command input for causing the player character to perform a technique corresponding to the set degree of difficulty. *See id. (Claims 1, 11, 16)*

- c. Causing the player character to perform the technique according to the set degree of difficulty wherein the operation unit includes a first operable member for inputting a the command in accordance with the command input given by the command guiding input. *See id.* (Claims 1, 11, 16)
- d. Evaluating the technique performed in accordance with a command given by the first operable member. *See id.* (Claims 1, 11, 16)
- e. A changing a mark corresponding to the set degree of difficulty according to time and an operation unit including a second operable member for selecting a specific mark from the changing mark. *See id.* (Claims 2, 12, 17) More specifically, the difficulty of a technique is set by the power imparted to the character by the player's operation of an input device. A gauge displays a changing mark indicating the amount of power entered over time and a target mark associated with the difficulty of the technique. *See id.* If the player's inputs advance the change indicator to meet the level of the target indicator such that the target mark is selected, the game displays the character performing the technique successfully. *See id.*
- f. Changing a mark corresponding to the degree of difficulty by operating an operable member in the operation unit. *See id.* (Claims 3, 13, 18)
- g. Causing the character to land. *See id.* (Claims 4, 14, 19)
- h. If the input of a command is not completed within a predetermined time, causing the character to perform an action different from the action performed when the command is completed within the predetermined time. *See id.* (Claims 9, 24)
- i. Causing the character to perform a complicated technique when the set degree of difficulty is high. *See id.* (Claims 10, 25)
- j. Giving a higher evaluation is given when a shorter time is required to input a command. *See id.* (Claims 8, 23) More specifically, the higher difficulty techniques require players to

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perform longer and/or more complex maneuvers within a limited time to receive a higher evaluation. Hence, an effectively shorter time is given to input commands.

Thus the claims are unpatentable because *NWO-98* teaches all the features of the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 15 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *NWO-98* in view of *Links 386 CD Players Manual*, Access Software, Inc., 1995 (hereinafter "*Links-386*").

*NWO-98* teaches all the features of the claims except the following:

- a. Setting a landing display area for the setting the landing of the character in an partial area of the game image; sets a landing-success zone in the landing display area, displays a movable landing mark; and enables the character to land through the operation of a operable member when the landing mark is located within the landing-success area. (*Claim 5, 15, 20*)
- b. Landing success zone is set narrower as the degree of difficulty is set higher. (*Claim 6, 21*)
- c. Command input area is set in a partial area of the game image and the command is displayed in the input area in the form of icons. (*Claim 7, 22*)

Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Links-386*.

*Links-386* discloses an analogous sports game incorporating indicator to control the timing and power of a character's techniques wherein the character is a golfer and the indicator control's the golfer's swing of a golf club. The indicator provides effective means of controlling the timing and power aspects of physical movements in a game simulating a physical technique in a video game. In particular regards to the claims, *Links-386* describes the following features:

- a. Setting a landing display area for the setting a game object in an partial area of the game image; setting a success zone in the display area, displaying a movable mark; and enabling the game object to land though the operation of a operable member when the mark is located within the landing-success area. *See pp. 23, 33, 75. (Claim 5, 15, 20)*
- b. Success zone is set narrower as the degree of difficulty is set higher. *See p. 42. (Claim 6, 21)*
- c. Command input area is set in a partial area of the game image and the command is displayed in the input area in the form of icons. *See pp. 23 (Claim 7, 22)*

In view of *Links-386*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *NWO-98*, wherein a timed input by a player to control whether a character lands properly, to add the features of a landing unit setting a landing display area of the character in an partial area of the game image; setting a landing-success zone in the landing display area, displaying a movable landing mark; enabling the character to land though the operation of a operable member when the landing mark is located within the landing-success area; landing success zone is set narrower as the degree of difficulty is set higher and command input area is set in a partial area of the game image and the command is displayed in the input area in the form of icons. The modification would enhance the game's simulation of the techniques by providing players with an effective means of controlling the timing and power of physical movements in a game simulating a physical technique of landing a character.



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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.



Steven Ashburn  
October 10, 2002



MARK SAGER  
PRIMARY EXAMINER